



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: ACCESS TO EDUCATION FOR SCHOOL AGE POLICY 5.04
CHILDREN IN RESIDENTIAL HABILITATION CENTERS

Authority: [Chapter 28A.155 RCW](#) *Special Education*
[RCW 28A.190.020 through 060](#) *Residential Education Programs*
[RCW 71A.20.070](#) *Residential Habilitation Center Educational Programs*
[Chapter 392-172A WAC](#) *Rules for the Provision of Special Education*
45 CFR § 84.54 *Education of Institutionalized Persons*

PURPOSE

In compliance with the 2009 Voluntary Resolution Agreement between DSHS and the U.S. Department of Health and Human Services Office for Civil Rights, this policy describes the actions that the Division of Developmental Disabilities (DDD) Central Office and Residential Habilitation Centers (RHCs) will take when a school age client is admitted to a facility to ensure they receive timely and appropriate public education in the least restrictive environment.

SCOPE

This policy applies to the RHCs when school age client(s) are admitted to the facility.

DEFINITIONS

Free appropriate public education (FAPE) means special education and related services that:

- (1) Are provided at public expense, under public supervision and direction, and without charge;
- (2) Meet the standards of the OSPI, and the Individuals with Disabilities Education Act;
- (3) Include an appropriate preschool, elementary school, or secondary school education in the state; and

- (4) Are provided in conformity with an individualized education plan (IEP) that meets the requirements of WAC 392-172A-03090 through 392-172A-03135 [WAC 392-172A-01080].

Individual Education Program (IEP) means a written statement of an education program for a student eligible for special education that is developed, reviewed, and revised in accordance with WAC 392-172A-03090 through 392-172A-03135 [WAC 392-172A-01100].

Education in the least restrictive environment means the provision of services to each student provided to the maximum extent appropriate in the general education environment with students who are not disabled. Special classes, separate schooling, or other removal of students eligible for special education from the general educational environment will occur only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

School day means any day, including a partial day that students are in attendance at school for instructional purposes, including students with and without disabilities (WAC 392-172A-01050).

POLICY

- A. All children with disabilities shall have the opportunity for an appropriate education at public expense as guaranteed to them by the Constitution of Washington State and applicable federal laws (see RCW 28A.155.010).
- B. Within the limits of its authority, the RHCs will take action to ensure the timely and appropriate public education of school age children admitted to the RHCs as required by Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (see 45 C.F.R. § 84.54) (Section 504).

PROCEDURES

1. When a school age child is admitted to a RHC, the facility will notify the local school district of the admission no later than 24 hours following the admission or the next available work day.
2. If the child is expected to remain at the RHC for longer than twenty (20) or more school days, the RHC will enroll the child in the local school district as soon as possible, not to exceed a time period of five (5) school days.
 - a. Within ten (10) school days after the child has been admitted to the RHC, the RHC will confirm with the local school district that the local school district will provide a free appropriate public education (FAPE) as defined in WAC 392-172A-01080; and

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- b. Within ten (10) school days after the child has been admitted to the RHC and for as long as the child resides in the RHC, DSHS and the RHC will provide necessary services consistent with RCW Sections 28A.190.040 and 28A.190.050.
 3. If the child is expected to remain at the RHC for fewer than twenty (20) school days, the RHC will keep the school district informed as to any change in circumstances that may lead to the child remaining at the RHC for a longer period. Notification to the school district must be given within three (3) days of the change in circumstances, and in no event later than twenty (20) days after admission of the child to the RHC.
 4. For as long as the child resides at the RHC, a member of the child's RHC Interdisciplinary Team (IDT) will:
 - a. Actively participate in all Individual Education Plan (IEP) meetings and the development of the IEP to ensure that the child's IEP is designed to meet the child's individual needs;
 - b. Monitor the provision of special education and related services by the local school district to ensure the provision of FAPE in the least restrictive environment;
 - c. Monitor the provision of services by the RHC; and
 - d. Review the child's progress with the school district at least quarterly and more frequently if warranted.
 5. In the event that the RHC believes that the child's IEP is not being implemented, or not being implemented in the least restrictive environment (as defined in WAC 392-172A-02050), the RHC will immediately contact the child's parent/guardian and the appropriate school district official to discuss the issue.
 - a. If contact with the school district does not lead to a timely resolution of the concerns of the RHC, the RHC will notify the Division Director or designee (see section 6 below) of the situation for resolution and/or referral to the Office of Superintendent of Public Instruction (OSPI).
 - b. If the child's IEP is not being implemented or not being implemented in the least restrictive environment, and DDD Central Office believes that further discussion with the school district is unlikely to be effective in resolving the concerns, DDD will file a formal complaint with the OSPI, as specified in WAC 392-172A-05025 (or contact OSPI as required by the dispute resolution provisions or

some other procedure mutually developed to address the failures of the local of the school district), in a timely manner.

- c. Nothing in this policy precludes anyone from filing a complaint with OSPI, as specified in WAC 392-172A-05025 or a complaint under Section 504 with the Department of Education Office for Civil Rights or the Department of Health and Human Services, Office for Civil Rights, at any time.
6. The Division Director or designee will be responsible for:
- a. Monitoring the RHC staff to ensure that procedures described in this policy are followed;
 - b. Monitoring the provision of special education and related services to children residing in the RHC to ensure the provision of FAPE; and
 - c. Implementing the resolution process described in section 5 above to ensure the provision of FAPE.
7. The Residential Care Services (RCS) Division, as the Medicaid Survey Agency for the state, will also monitor compliance with this policy and procedures annually and following any complaint that a resident is not receiving a free appropriate public education (FAPE) as described in WAC 392-172A-02000.

EXCEPTIONS

No exceptions to this policy may be granted without the prior written approval of the Division Director.

Approved: /s/ Linda Rolfe Date: April 1, 2010
Director, Division of Developmental Disabilities